

Busy Week With the Supreme and Circuit Court

Monday, March 26.

The Supreme Court sat long enough this morning to adjourn for the day. Charles W. Booth has made a separate answer to the complaint of Sarah Anna Berger against himself and Chas. S. Desky for the cancellation of a deed. A summary of his allegations and details is here given. At the time of execution of a deed of trust by Joseph Booth the grantor was not possessed of the principal part of the land which is the subject of complaint, an area of 208 2/3 acres, but had only a life estate in it. Whatever interest the plaintiff may have acquired in that land, by the deed of trust or otherwise, had, long prior to the date of the deed from plaintiff to this defendant, been lost to her through the statute of limitations, by reason of the adverse holding of Annie Booth, afterward Annie Long, the mother of plaintiff and of this defendant. As to all the Puna property mentioned in the trust deed, the plaintiff had no interest therein except the right of residence and maintenance on the premises, which right was lost by plaintiff upon her becoming forlorn and through adverse holding.

Plaintiff was not ignorant of the value of the interest she conveyed to defendant, but had independent advice thereupon. Defendant admits he is brother of plaintiff, but denies that he has knowledge of the value of the lands in question not possessed by plaintiff or easily obtainable by her. The land subject to the agreement with Chas. S. Desky was, at the time of the execution of the deed, pasture land of inferior quality and had but little actual value. Defendant was advised that the interest of plaintiff in the land was without value except for the purpose of saving litigation and quieting title. He had heard that plaintiff said she would take \$5,000 for her interest, and he tendered that amount with a quitclaim deed for her to execute in San Francisco. The deed was executed September 15, 1898. Negotiations with defendant Desky did not begin in August, 1899, but in February, 1899. Plaintiff had not for many years repudiated confidence and trust in this defendant. He had not communicated with plaintiff by letter since 1895. All the charges of fraud, etc., are denied.

Neither at the time of receiving the deed from plaintiff nor for many months thereafter did this defendant have in prospect the sale of any considerable portion of the property. The agreement with Desky for the sale of the property now known as "Paele Heights" does not represent all of the consideration given by Booth in return for the \$100,000. Almost the entire value of the property as expressed therein was caused by Booth's ownership of Puna property, without which it would have been impracticable to supply the land with water and thus make it available for residence sites. And even in connection with the water the land could be made of value only by the expenditure of a large sum of money, and Chas. S. Desky has in fact spent a large sum of money, the exact amount being unknown to this defendant, in rendering the land accessible.

Nellie Bailey, one of the beneficiaries, has consented to the substitution of Philip L. Weaver for G. W. Lincoln in the trusteeship for Melana, wife of G. W. Lincoln, and others.

Kinney, Ballou & McClanahan have filed a demurrer of defendants to the bill for partition of Rita C. Tewksbury vs. Antonio G. Cunha and others, on the ground that sufficient cause of action is not shown.

Tuesday, March 27.

An inventory of the estate of the late H. H. Wilcox of Lihue, Kauai, has been filed by Geo. N. Wilcox, administrator, in the Fifth circuit and transmitted to the clerk of the judiciary by Judge Hardy. The total valuation is \$181,092.71. As much of the property consists of stocks inventoried at par value which are at premiums, the actual value is probably beyond \$200,000. There is \$60,650 in Government bonds, \$14,900 six per cents and \$45,750 per cents. The largest holding of stock is 125 shares of I. S. N. Co. at \$100 par value. Cash on hand is \$87,912.71.

Lo Kam by his attorney, Saml. F. Chillingworth, has perfected his appeal from conviction for vagrancy in the Circuit Court.

Chung Fook answers the complaint in ejectment of Lee Tit by general denial. J. T. De Bolt for defendant.

Defendant's notice of appeal from the District Court, in *Victorino Vasconcelos vs. James Dodd*, dated July 19, 1899, has only today been filed. Plaintiff claimed \$75 for building a stone wall, and judgment was given for defendant with costs.

Judge Perry has filed a written decision overruling the demurrer of defendant in the bill for injunction of Wing Chong Wai Co. vs. Margaret V. Carter, Cecil Brown and Kinney, Ballou & McClanahan for complainant; A. S. Humphreys and L. Andrews for respondent.

In *Arthur G. Mericourt vs. Norwalk Fire Insurance Co.*, defendant's motion for a new trial will be heard on Friday.

Judge Perry has approved accounts in the guardianship of Jones, Ashford and Hall minors, and of Kan Yee and Bill Bray, minors.

Judge Perry is trying the death benefit claim of Mrs. Gomes against the Portuguese Mutual Benefit Society. J. M. Vivas and A. G. Correa for plaintiff; J. T. De Bolt for defendant.

The Supreme Court this morning heard *Union Feed Co., Ltd., vs. E. B. Thomas with Bank of Hawaii garnishee*. C. G. Bittling for plaintiff-appellant; T. McCanta Stewart for defendant. The attorneys agreed in open

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2. The document is a fraudulent paper.
3. The purported last will was signed by deceased through the influence of false representations and threats of those living with her at the time.
4. The subscribing witnesses to the will are peculiarly benefited by the execution of the instrument.
5. Mahia Kanehaka is attorney for contestant.

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An affidavit on motion to open default has been made by defendant in *A. S. Clegdon, administrator, vs. W. R. Castle*, bill for account. He alleges presentation of a claim against the estate of the late Antonio Rosa for \$110 and interest for about three years, and that said estate is solvent according to accounts in court, the total amount of claims liable to be pressed being \$9022.67, and value of assets \$13,079.37.

Fire claims have been filed by Geo. Afat for \$116.25 and Ah Chung for \$250.75.

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It appears the first claim filed had been referred to the Judiciary department by officials of the Board of Health. Henry Smith, Clerk of Judiciary, received it and others following in the belief that the object was simply the preservation of the claims in one place until some tribunal was prepared to adjudicate them.

Latterly, however, it has come to the knowledge of the Justices of the Supreme Court that attorneys were col-

lecting fees from loans by the sanitary force, but not presenting their claims in a legal form so that they could be recognized by the courts. They have been accompanied by petitions and in some cases there are not even affidavits to the claims.

It is to stop and prevent abuses that the justices have made the order shutting off claims. No doubt the fire sufferers will have full opportunity before the Court of Claims authorized by President McKinley.

CAPT. ANKERS IS ALIVE.

San Francisco, March 13.—The schr. *Metba Nelson* was cleared yesterday for Kihiti, H. I., with 45,287 ft. lumber, 2413 cts barky, 1000 sds bran, 100 bbls lime, 443 bales hay, 20,000 lbs rice, 69 pkgs machinery, 1 engine, 1114 pkgs railroad material, etc., valued at \$12,217. Additional per bark Mohican for Honolulu—604 cts corn, 1000 sds bran, 771 cts barley, 500 bales hay, 2 horses, etc., valued at \$2,658.

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